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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,393	05/25/2001	Leonard S. Hand	6169-203	4209
7590	03/04/2004			EXAMINER
Gregory A. Nelson Akerman Senterfitt P.O. Box 3188 222 Lakeview Avenue, Fourth Floor West Palm Beach, FL 33402-3188			CHANNAVAJJALA, SRIRAMA T	
			ART UNIT	PAPER NUMBER
			2177	2
DATE MAILED: 03/04/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/865,393	HAND ET AL.
	Examiner	Art Unit
	Srirama Channavajala	2177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 May 2001.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Drawings***

1. The drawings filed on 5/25/2001 are approved to by the Draftsperson under 37 CFR 1.84 or 1.152..

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 5,10,20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. *In re Wands*, 858 F.2d 731,737,8 USPQ2d 1400,1404 (Fed.Cir.1998), also see MPEP 2164.01(a) & 2164.04.

More specifically, it is not clear as to what is meant by "CDN" and this term and the relationship with respective to visualizing, displaying, retrieving sequential playback of predefined metrics, have no where been defined both in the specification and in the drawings

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5,10,20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  
4. It is not clear what is meant by "CDN" with respective to visualization-predefined metrics, as this term "CDN" is not defined by the specification. In the interest of compact prosecution, this is taken to mean data values related to various data sources are connected through a network or the like.
  
5. Claims 2-4,5-9,11-14,16-19,21-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

At page 26-33, Claims 2-4,5-9,11-14,16-19,21-24 dependent on itself; for the Compact Prosecution, examiner assumes the following:

Claims 2-4 are dependent on independent Claim 1;

Claims 5-9 are dependent on independent Claim 5;

Claims 11-14 dependent on independent Claim 15;

Claims 21-24 dependent on independent Claim 20;

Further, in the Office action, examiner treated Claims 2-4,5-9,11-14,16-19,21-24 are dependent on independent Claims 1,5,15,20 respectively.

Appropriate correction is required in response to this office action.

### ***Specification***

The citation to the cross-referenced application in the paper no. # 1, page 2, 09/865,368 of the specification is **missing**. Appropriate correction is required including updating their status. Cross-References to Related Applications: See 37 CFR 1.78 and MPEP 201.11.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-3,5-8,10-13,15-18,20-23 are rejected under 35 U.S.C. 102(a) as being anticipated by D'ippolito, Tommaso, et al., [hereafter Tommaso], CA 2287844.

7. As to Claims 1,5,10,20, Tommaso teaches a system which including 'post-analyzing and sequentially visualizing a plurality of predefined metrics in a stored dynamic data space' [Abstract, page 3, line 11-16, line 20-23]; 'plurality of communication components in a CDN' [fig 1], CDN corresponds to carrier network, fig 1, element 24 [Claim 5,10,20] 'storing in a datastore, values corresponding to the predefined metrics received from an agent' [page 6, line 10-17, fig 1], Tommaso is directed to performance of a communications network, more specifically, gathering performance data, monitoring various parameters related to performance to and from the network, Tommaso also teaches each device or equipment typically consists of a database as detailed in fig 1, element 26, the data values are based on real-time or dynamic data values that are stored in a database; 'each of said values representing a characteristic of one of a plurality of entities in the data space' [page 11, line 5-22, page 12, line 3-5], Tommaso teaches data associated with other related objects such as detailed in fig 6, 112 are represented uniquely if it meets specific criteria and that

corresponds to characteristic of entities in the data region, also it is noted that each component in the CDN [claim 20] corresponds to fig 1, element 12,14,16,18,20,22; 'retrieving said stored values from said datastore' [page 12, line 11-15], Tommaso specifically teaches user accessing information from respective location in the main memory as detailed in page 12, line 11-15; 'displaying said retrieved values for selected ones of said predefined metrics for sequential viewing on a graphical display' [page 12, line 16-26,page 13, line 14-22, fig 7,9], Tommaso specifically teaches visually representing and displaying retrieved data from selected performance module as detailed in fig 9.

8. As to Claims 2,7,12,17,22, Tommaso teaches a system which including 'accessing values in said datastore' [page 6, line 26-29, page 9, line 4-7], accessing values in datastore corresponds to accessing respective device database as detailed in fig 1; 'determining a starting position and an ending position of said stored values to be retrieved' [page 12, line 19-26,fig 7], Tommaso teaches performance metrics, more specifically, performance metric have various parameters that including log time, as best understood by the examiner, starting and ending position of data values is integral part of Tommaso's teaching because Tommaso specifically performance related data values as detailed in fig 7; 'acquiring said sequentially stored values from said starting position to said ending position' [fig 13,page 16, line 2-10].

9. As to Claims 3,8,13,18,23, Tommaso teaches a system which including 'selecting at least one of the metrics for display for selected ones of said entities' [see fig 8, page 13, line 7-13], 'providing a graphical display of said selected metrics, said display sequentially changing according to changes in said acquired values caused by changes in the stored dynamic data space' [page 6, line 16-18,page 11, line 5-9, page 16, line 1-10, fig 9], Tommaso specifically teaches graphical display of selected metrics as detailed in fig 9.

10. As to Claims 6,11,16,21, Tommaso teaches a system which including 'storing said values sequentially in time as said values are collected' [fig 13, fig 7, page 16, line 2-10].

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 4,9,14,19,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Ippolito, Tommaso et al., [hereafter Tommaso], CA 2287844 as applied to claims 1,5,10,15,20 above, and further in view of Gupta et al., [hereafter Gupta], US Patent No. 6622171.

12. As to Claims 4,9,14,19,24, Tommaso teaches a system which including 'sequentially changing graphical display' [see fig 8,13]. It is however, noted that Tommaso does not specifically teach 'selecting a playback function from the group consisting of playing, forwarding, fast forwarding, rewinding, fast rewinding, pausing, stepping and stopping'. On the other hand, Gupta et al. disclosed 'selecting a playback function from the group consisting of playing, forwarding, fast forwarding, rewinding, fast rewinding, pausing, stepping and stopping' [fig 5-7, col 9, line 45-60, col 10, line 3-5, line 38-40, line 53-54], Gupta is directed to multimedia timeline content over network, more specifically multimedia content is steamed with respect to time-scale allowing users to select multimedia content playback speeds, further user to control various play functions such as playing, forwarding, fast forwarding, rewinding, fast rewinding, pausing, stepping and stopping as detailed in fig 5-7.

It would have been obvious to one of the ordinary skill in the art at the time of applicant's invention to incorporate the teachings of Gupta et al., into providing information about the performance of a communications network of Tommaso et al., because both Tommaso, and Gupta are directed to communications network based information, more specifically Tommaso is directed to network management that provides the performance of communications network [see Abstract]. Gupta et al. Is directed to multimedia information over a network system, more specifically, utilizing time-scale modification so that user can vary the speed of information representing the various media types on a real-time as needed basis without destroying data intelligibility [see Abstract, col 2, line 1-8]. It would have been obvious to one of the ordinary skill in the art at the time of applicant's invention to combine the references because that would have allowed users of Tommaso to effectively monitor and control various aspects of network performance data on real-time as needed basis with respect to time-scale, further allows control user's designated speed as suggested by Gupta et al. [col 2, line 9-16], thus improving the quality and reliability of data.

***Conclusion***

**The prior art made of record**

- a. CA 2287844.
- b. US Patent No. 6622171

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- c. US Patent No. 6021215
- d. US Patent No. 5801688
- e. US Patent No. 6651048
- f. US Patent No. 6282547
- g. US Patent No. 5428776

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Srirama Channavajjala whose telephone number is (703) 308-8538. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM Eastern Time. The TC2100's Customer Service number is (703) 306-5631.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene, can be reached on (703) 305-9790. The fax phone numbers for the organization where the application or proceeding is assigned are as follows:

703/746-7238

**(After Final Communication)**

703/872-9306

**(Official Communications)**

703/746-7240

**(For Status inquiries, draft communication)**

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

sc *W*  
Patent Examiner.  
March 3, 2004.